

**Introduced by Senator Poochigian**

February 23, 2006

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An act to amend Section 666.5 of the Penal Code, and to amend Section 10851 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

SB 1503, as introduced, Poochigian. Vehicle theft: probation.

(1) Existing law makes it a felony punishable by imprisonment in the state prison for 2, 3, or 4 years if a defendant previously convicted of felony vehicle, motor vehicle, trailer, special construction equipment, or vessel theft or felony grand theft involving an automobile is subsequently convicted of one of those offenses regardless of whether he or she actually served a prior prison term for those offenses.

This bill would apply these provisions to a person who has previously been convicted of one or more misdemeanor violations. Because this would increase the level of local law enforcement services, this bill would impose a state-mandated local program.

This bill would allow a person who is subject to the above-described punishment to be granted probation only in the unusual case where the interests of justice would best be served; and when probation is granted under this provision, the court would be required to specify on the record and enter into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

(2) Existing law makes it a felony for a person to unlawfully take or steal, as described, a distinctively marked vehicle of a law enforcement agency or fire department, taken while the vehicle is on an emergency call and this fact is known to the person driving or taking, or to take or steal a vehicle that is modified for the use of a disabled veteran or other disabled person and that displays a

distinguishing license plate or placard and this fact is known or should reasonably have been known to the person unlawfully driving or taking the vehicle or an accomplice or accessory to these acts.

This bill would delete the requirement that the above described facts, as to the status of the ambulance or vehicle, be known to the person driving or taking the ambulance or vehicle. This bill would thereby expand the scope of an existing crime, thus, creating a state-mandated local program.

This bill would also provide for unspecified enhanced sanctions for those persons who violate the above-described offense or offenses under specified circumstances.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 666.5 of the Penal Code is amended to  
2     read:  
3     666.5. (a) ~~Every~~—A person who, having been previously  
4     convicted of a felony violation of Section 10851 of the Vehicle  
5     Code, or felony grand theft involving an automobile in violation  
6     of subdivision (d) of Section 487 or former subdivision (3) of  
7     Section 487, as that section read prior to being amended by  
8     Section 4 of Chapter 1125 of the Statutes of 1993, or felony  
9     grand theft involving a motor vehicle, as defined in Section 415  
10    of the Vehicle Code, ~~any~~ a trailer, as defined in Section 630 of  
11    the Vehicle Code, ~~any~~ special construction equipment, as defined  
12    in Section 565 of the Vehicle Code, or ~~any~~ a vessel, as defined in  
13    Section 21 of the Harbors and Navigation Code in violation of  
14    former Section 487h, or a felony violation of Section 496d  
15    regardless of whether or not the person actually served a prior  
16    prison term for those offenses, is subsequently convicted of ~~any~~  
17    one or more of these offenses shall be punished by imprisonment  
18    in the state prison for two, three, or four years, or a fine of ten

1 thousand dollars (\$10,000), or both the fine and the  
2 imprisonment.

3 (b) For the purposes of this section, the terms “special  
4 construction equipment” and “vessel” are limited to motorized  
5 vehicles and vessels.

6 (c) The existence of ~~any~~ a fact ~~which~~ *that* would bring a  
7 person under subdivision (a) shall be alleged in the information  
8 or indictment and either admitted by the defendant in open court,  
9 or found to be true by the jury trying the issue of guilt or by the  
10 court where guilt is established by plea of guilty or nolo  
11 contendere or by trial by the court sitting without a jury.

12 (d) *A person who is subject to punishment under this section*  
13 *may be granted probation only in the unusual case where the*  
14 *interests of justice would best be served. When probation is*  
15 *granted under this subdivision, the court shall specify on the*  
16 *record and shall enter into the minutes the circumstances*  
17 *indicating that the interests of justice would best be served by*  
18 *that disposition.*

19 SEC. 2. Section 10851 of the Vehicle Code is amended to  
20 read:

21 10851. (a) ~~Any~~ A person who drives or takes a vehicle not  
22 his or her own, without the consent of the owner thereof, and  
23 with intent either to permanently or temporarily deprive the  
24 owner thereof of his or her title to or possession of the vehicle,  
25 whether with or without intent to steal the vehicle, or ~~any~~ a  
26 person who is a party or an accessory to or an accomplice in the  
27 driving or unauthorized taking or stealing, is guilty of a public  
28 offense and, upon conviction thereof, shall be punished by  
29 imprisonment in a county jail for not more than one year or in the  
30 state prison or by a fine of not more than five thousand dollars  
31 (\$5,000), or by both the fine and imprisonment.

32 (b) If the vehicle *described in subdivision (a)* is (1) an  
33 ambulance, as defined in subdivision (a) of Section 165, (2) a  
34 distinctively marked vehicle of a law enforcement agency or fire  
35 department, ~~taken while the ambulance or vehicle is on an~~  
36 ~~emergency call and this fact is known to the person driving or~~  
37 ~~taking, or any person who is party or an accessory to or an~~  
38 ~~accomplice in the driving or unauthorized taking or stealing, or~~  
39 (3) a vehicle ~~which has been~~ *that is* modified for the use of a  
40 disabled veteran or ~~any~~ other disabled person and ~~which~~ *that*

1 displays a distinguishing license plate or placard issued pursuant  
2 to Section 22511.5 or 22511.9 ~~and this fact is known or should~~  
3 ~~reasonably have been known to the person driving or taking, or~~  
4 ~~any person who is party or an accessory in the driving or~~  
5 ~~unauthorized taking or stealing,~~ the offense is a felony  
6 punishable by imprisonment in the state prison for two, three, or  
7 four years or by a fine of not more than ten thousand dollars  
8 (\$10,000), or by both the fine and imprisonment.

9 (c) ~~In any~~ a prosecution for a violation of subdivision (a) or  
10 (b), the consent of the owner of a vehicle to its taking or driving  
11 shall not in any case be presumed or implied because of the  
12 owner's consent on a previous occasion to the taking or driving  
13 of the vehicle by the same or a different person.

14 (d) The existence of ~~any a fact which~~ *that* makes subdivision  
15 (b) applicable shall be alleged in the accusatory pleading, and  
16 either admitted by the defendant in open court, or found to be  
17 true by the jury trying the issue of guilt or by the court where  
18 guilt is established by plea of guilty or nolo contendere or by trial  
19 by the court sitting without a jury.

20 (e) ~~Any~~ A person who has been convicted of one or more  
21 previous ~~felony~~ violations of this section, or ~~felony~~ grand theft of  
22 a vehicle in violation of subdivision (d) of Section 487 of the  
23 Penal Code, former subdivision (3) of Section 487 of the Penal  
24 Code, as that section read prior to being amended by Section 4 of  
25 Chapter 1125 of the Statutes of 1993, or Section 487h of the  
26 Penal Code, is punishable as set forth in Section 666.5 of the  
27 Penal Code. The existence of ~~any a fact~~ that would bring a  
28 person under *subdivision (f), (g), (h), (i), or (j), or* Section 666.5  
29 of the Penal Code, *or any combination,* shall be alleged in the  
30 information or indictment and either admitted by the defendant in  
31 open court, or found to be true by the jury trying the issue of guilt  
32 or by the court where guilt is established by plea of guilty or nolo  
33 contendere, or by trial by the court sitting without a jury.

34 (f) ~~This section shall become operative on January 1, 1997~~ A  
35 *person who violates subdivision (a) as a principal or accessory*  
36 *to the taking of a vehicle in exchange for consideration or for the*  
37 *purpose of sale or transport of the vehicle or its component, in*  
38 *addition to other penalties prescribed by law, is subject to \_\_\_\_.*

39 (g) *A person who violates subdivision (a) as a principal or*  
40 *accessory to the taking of a vehicle that, prior to its recovery, is*

1 *used in the commission of an offense that is a felony, in addition*  
2 *to other penalties prescribed by law, is subject to \_\_\_\_.*

3 *(h) A person who violates subdivision (a) as a principal or*  
4 *accessory to the taking of a vehicle and with intent to use the*  
5 *vehicle in the commission of a felony, in addition to other*  
6 *penalties prescribed by law, is subject to \_\_\_\_.*

7 *(i) A person who feloniously violates subdivision (a) as a*  
8 *principal or accessory to the taking of a vehicle that, prior to its*  
9 *recovery, is the subject of a police pursuit, in addition to other*  
10 *penalties prescribed by law, is subject to \_\_\_\_.*

11 *(j) A person who violates subdivision (a) as a principal or*  
12 *accessory to the taking of a vehicle that, prior to its recovery, is*  
13 *involved in a collision, in addition to other penalties prescribed*  
14 *by law, is subject to \_\_\_\_.*

15 SEC. 3. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the  
20 penalty for a crime or infraction, within the meaning of Section  
21 17556 of the Government Code, or changes the definition of a  
22 crime within the meaning of Section 6 of Article XIII B of the  
23 California Constitution.